

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

In the Office Action of March 31, 2010, claims 1-20 were rejected under 35 U.S.C. § 103(a) as being anticipated by *Cook* (U.S. Patent No. 4,637,396) in view of *Fina* (U.S. Patent No. 4,911,163). For at least the following reasons, Applicants respectfully traverse these rejections.

The primary reference relied upon by the Examiner, *Cook*, is directed to a balloon catheter 10 including a catheter tube 11 and a flexible inner member 13. A balloon 12 is disposed coaxially about the inner member 13. Further, the proximal end of the balloon 12 is fixed and sealed to the distal end 16 of the catheter tube 11 and the distal end of the balloon 12 is fixed and sealed to the distal end 18 of the inner member 13 thus, a distance between the distal end 16 of the outer tube 11 and the distal end 18 of the inner tube 13 is defined by the length of the balloon 12. Whether consideration is given to the distal end 18 or the plastic tip 19 corresponding to the claimed "distal end of said inner catheter", either way, it is clear that the distal end of the inner tube 13 extends more than 10mm from the distal end 16 of outer tube 11. Accordingly, this feature of claim 1 is not disclosed in *Cook*.

Fina, the secondary reference upon which the Examiner relies, discloses an assembly of an inner balloon catheter 1 and an outer balloon catheter 7. The inner balloon catheter including first balloon 2 protrudes from the distal end 12 of the outer balloon catheter 7, as clearly shown in Fig. 2. Therefore, the distance between the distal end of the inner balloon catheter 1 and the distal end of the outer balloon catheter 7 is over 10 mm. As such, *Fina*, fails to suggest the teaching found to be lacking in the primary reference to *Cook*.

In addition, the Examiner maintains that the catheters of *Cook* are capable of being disengaged and removed from one another. Applicants respectfully submit that while such destruction of *Cook* may be possible, it is certainly not suggested by *Cook*. *Cook* is intended to function as a sealed unit having a pressure seal at the joints 46 and 53 (Col. 4, lines 11-14) noted by the Examiner. Removal of the cap 46 as suggested by the Examiner would break the intended seal. As cautioned by the Federal Circuit, where a modification of the prior art device would render such device inoperable for its intended purpose, the mere fact that the prior art device could be so modified would not have made the modification obvious. In re Gordon, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Accordingly, Applicants submit that there is no suggestion to modify *Cook* in view of *Fina* as set forth by the Examiner.

Moreover, in *Cook*, the maximum outer diameter of the tip of the inner tube 13 (with the attached plastic tip 19) is larger than the inner diameter of the outer tube 11 (see, Fig. 2). Therefore, even if the catheter assembly were disengaged as proposed by the Examiner, the inner tube 13 could not be removed from the outer tube 11. Claim 21 has been newly added to define the intended proximal removal of the inner tube from the outer tube.

Applicants respectfully submit that the cited prior art fails to disclose or suggest that "the distance between the distal end of the outer catheter and a distal end of the inner catheter being no more than 10 mm", as recited in claim 1.

The remaining dependent claims define further distinguishing features associated with the claimed invention. These dependent claims are allowable at least by virtue of their dependence from allowable independent claim 1. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time.

Early and favorable action concerning this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: June 30, 2010

By: /WLWeinstein/
Wendi L. Weinstein
Registration No. 34456

Customer No. 21839
703 836 6620